

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

) MUR 5176

Dave Wu for Congress and)

Jay Castle, as Treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Dave Wu for Congress and Jay Castle, as Treasurer ("Respondents"), violated 2 U.S.C. §§ 432(c)(5), (d), and 441a(f).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Dave Wu for Congress is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Jay Castle is the treasurer of Dave Wu for Congress.

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3. Pursuant to 2 U.S.C. § 441a(a)(1)(A), no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000. This contribution limitation applies separately with respect to primary and general elections. 11 C.F.R. § 110.1(j). Commission regulations require that for a contribution to be designated in writing for a particular election, a contribution check itself or an accompanying writing signed by the contributor must clearly indicate the particular election with respect to which the contribution is made. 11 C.F.R. § 110.1(b)(4). Commission regulations also require that any contribution made by more than one person shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing. 11 C.F.R. § 110.1(k)(1).

4. Pursuant to 2 U.S.C. § 441a(f), no candidate or political committee shall knowingly accept any contribution in violation of the provisions of 2 U.S.C. § 441a. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate in violation of any limitation imposed on contributions under 2 U.S.C. § 441a. The word "knowingly" in this context shall mean the candidate or political committee had knowledge of the acceptance of a contribution, but shall not mean that the candidate or political committee had knowledge that such acceptance constituted a violation of law.

5. Because they did not obtain timely attributions or redesignations of contributions, Respondents accepted contributions from 81 individuals that exceeded the applicable contribution limitation by a total of \$67,650. Respondents contend that they intended to comply with the \$1,000 contribution limit in 2 U.S.C. § 441a(a)(1)(A) by accepting no more than a \$1,000 contribution from any one single individual for the primary election and \$1,000 for the general election.

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6. Pursuant to 2 U.S.C. § 432(c)(5), the treasurer of a political committee shall keep an account of the name and address of every person to whom any disbursement is made, the date, amount, and purpose of the disbursement, including a receipt, invoice, or cancelled check for each disbursement in excess of \$200.

7. Pursuant to 2 U.S.C. § 432(d), the treasurer shall preserve all records required to be kept for three years after the report is filed.

8. Respondents failed to maintain sufficient records in a material number of instances to support payee address, purpose of disbursement, or both in the sample of the Respondents' disbursements reviewed by the Commission's Audit Division.

9. Respondents contend that these contributions were found by the Commission to be excessive because Respondents failed to timely obtain proper attributions and designations of the contributions in accordance with 11 C.F.R. § 110.1(b) and (k)(1). Respondents contend that they were not aware of these requirements at the time, and did not intend to violate 2 U.S.C. § 441a(f).

V. Respondents accepted a total of \$67,650 in excessive contributions in violation of 2 U.S.C. § 441a(f).

VI. Respondents failed to keep an account of the address of every person to whom any disbursement is made and the purpose of the disbursement in violation of 2 U.S.C. §§ 432(c)(5) and (d).

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of thirty thousand dollars (\$30,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. Respondents will refund the excessive contributions to the contributors no later than six (6) months after this Agreement has been approved by the Commission.

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IX. The Commission, on request of anyone filing a complaint under 2 U.S.C.

§ 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

X. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

XI. Except as noted above, Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable. The Commission and the Respondents agree that this Conciliation Agreement concludes and settles the matters at issue in the audit of the Respondents for the period July 15, 1997 to December 31, 1998.

22.04.405.4337

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY:




Gregory R. Baker
Acting Associate General Counsel

Date

5/24/02

FOR THE RESPONDENTS:



Judith L. Corley
Counsel to
Dave Wu for Congress

Date

5/6/02

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